

AMENDED IN ASSEMBLY JUNE 12, 2001

AMENDED IN SENATE MARCH 29, 2001

SENATE BILL

No. 759

Introduced by Senator Murray

February 23, 2001

An act to amend Section 14556.26 of the Government Code, and to amend Sections 182.6, 182.7, and 182.8 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 759, as amended, Murray. Transportation: ~~traffic congestion relief fund~~ *Traffic Congestion Relief Fund*: funding exchange program.

(1) Existing law requires that a regional or local agency receiving an allocation from the Traffic Congestion Relief Fund certify that it will sustain its level of expenditures for transportation purposes at a level that is consistent with the average of its annual expenditures during the 1997–98, 1998–99, and 1999–2000 fiscal years, *including funds reserved for transportation purposes*.

This bill ~~would make technical, nonsubstantive changes in this provision~~, *in the case of the Orange County Transportation Authority, would exclude expenditures drawn from the proceeds of revenue bonds for the purposes of determining compliance with this requirement*.

(2) Existing law authorizes the California Transportation Commission to offer to exchange *state* funds from the Traffic Congestion Relief Fund for *federal* regional surface transportation program and congestion mitigation and air quality program apportionments received as local assistance by regional transportation planning agencies. The Department of Transportation is required to

repay to the fund all funds received as federal reimbursements for funds exchanged as they are received from the Federal Highway Administration.

This bill instead would require the department to repay from the State Highway Account in the State Transportation Fund to the Traffic Congestion Relief Fund all funds received as federal reimbursements, as they are received, for funds exchanged under the exchange program, except that the repayments are not required to be made more frequently than on a quarterly basis.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14556.26 of the Government Code is
2 amended to read:

3 14556.26. *✱ (a) Except as provided in subdivision (b), a*
4 *regional or local agency receiving an allocation from this program*
5 *shall certify, by resolution of its governing board, before final*
6 *execution of the cooperative agreement, that the agency will*
7 *maintain its level of expenditures for transportation purposes in an*
8 *amount that is consistent with the average of its annual*
9 *expenditures during the 1997–98, 1998–99, and 1999–2000 fiscal*
10 *years, including funds reserved for transportation purposes,*
11 *during the fiscal years that the allocation provided under this*
12 *chapter is available for use. The certification is subject to audit by*
13 *the state.*

14 *(b) For the Orange County Transportation Authority, the level*
15 *of expenditure to be maintained under subdivision (a) is the*
16 *average annual expenditure during the 1997–98, 1998–99, and*
17 *1999–2000 fiscal years, exclusive of the expenditures drawn from*
18 *the proceeds of revenue bonds.*

19 SEC. 2. Section 182.6 of the Streets and Highways Code is
20 amended to read:

21 182.6. (a) Notwithstanding Sections 182 and 182.5, Sections
22 188, 188.8, and 825 do not apply to the expenditure of an amount
23 of federal funds equal to the amount of federal funds apportioned
24 to the state pursuant to that portion of subsection (b)(3) of Section
25 104, subsections (a) and (c) of Section 157, and subsection (d) of
26 Section 160 of Title 23 of the United States Code that is allocated



within the state subject to subsection (d)(3) of Section 133 of that code. These funds shall be known as the regional surface transportation program funds. The department, the transportation planning agencies, the county transportation commissions, and the metropolitan planning organizations may do all things necessary in their jurisdictions to secure and expend those federal funds in accordance with the intent of federal law and this chapter.

(b) The regional surface transportation program funds shall be apportioned by the department to the metropolitan planning organizations designated pursuant to Section 134 of Title 23 of the United States Code and, in areas where none has been designated, to the transportation planning agency designated pursuant to Section 29532 of the Government Code. The funds shall be apportioned in the manner and in accordance with the formula set forth in subsection (d)(3) of Section 133 of Title 23 of the United States Code, except that the apportionment shall be among all areas of the state. Funds apportioned under this subdivision shall remain available for three federal fiscal years, including the federal fiscal year apportioned.

(c) Where county transportation commissions have been created by Division 12 (commencing with Section 130000) of the Public Utilities Code, all regional surface transportation program funds shall be further apportioned by the metropolitan planning organization to the county transportation commission on the basis of relative population.

In the Monterey Bay region, all regional surface transportation program funds shall be further apportioned, on the basis of relative population, by the metropolitan planning organization to the regional transportation planning agencies designated under subdivision (b) of Section 29532 of the Government Code.

(d) The applicable metropolitan planning organization, county transportation commission, or transportation planning agency shall annually apportion the regional surface transportation program funds for projects in each county, as follows:

(1) An amount equal to the amount apportioned under the federal-aid urban program in federal fiscal year 1990–91 adjusted for population. The adjustment for population shall be based on the population determined in the 1990 federal census except that no county shall be apportioned less than 110 percent of the apportionment received in the 1990–91 fiscal year. These funds

1 shall be apportioned for projects implemented by cities, counties,
2 and other transportation agencies on a fair and equitable basis
3 based upon an annually updated five-year average of allocations.
4 Projects shall be nominated by cities, counties, transit operators,
5 and other public transportation agencies through a process that
6 directly involves local government representatives.

7 (2) An amount not less than 110 percent of the amount that the
8 county was apportioned under the federal-aid secondary program
9 in federal fiscal year 1990–91, for use by that county.

10 (e) The department shall notify each metropolitan planning
11 organization, county transportation commission, and
12 transportation planning agency receiving an apportionment under
13 this section, as soon as possible each year, of the amount of
14 obligation authority estimated to be available for program
15 purposes.

16 The metropolitan planning organization and transportation
17 planning agency, in cooperation with the department, congestion
18 management agencies, cities, counties, and affected transit
19 operators, shall select and program projects in conformance with
20 federal law. The metropolitan planning organization and
21 transportation planning agency shall submit its transportation
22 improvement program prepared pursuant to Section 134 of Title
23 23 of the United States Code to the department for incorporation
24 into the state transportation improvement program not later than
25 August 1 of each even-numbered year beginning in 1994.

26 (f) Not later than July 1 of each year, the metropolitan planning
27 organizations; and the regional transportation planning agencies;
28 receiving obligational authority under this article shall notify the
29 department of the projected amount of obligational authority that
30 each entity intends to use during the remainder of the current
31 federal fiscal year, including, but not limited to, a list of projects
32 that will be obligated by the end of the current federal fiscal year.
33 Any federal obligational authority that will not be used shall be
34 redistributed by the department to other projects in a manner that
35 ensures that the state will continue to compete for and receive
36 increased obligational authority during the federal redistribution
37 of obligational authority. If the department does not have sufficient
38 federal apportionments to fully use excess obligational authority,
39 the metropolitan planning organizations or regional transportation
40 planning agencies relinquishing obligational authority shall make

1 sufficient apportionments available to the department to fund
2 alternate projects, when practical, within the geographical areas
3 relinquishing the obligational authority. Notwithstanding this
4 subdivision, the department shall comply with subsections (d)(3)
5 and (f) of Section 133 of Title 23 of the United States Code.

6 (g) A regional transportation planning agency that is not
7 designated as, nor represented by, a metropolitan planning
8 organization with an urbanized area population greater than
9 200,000 pursuant to the 1990 federal census may exchange its
10 annual apportionment received pursuant to this section on a
11 dollar-for-dollar basis for nonfederal State Highway Account
12 funds, which shall be apportioned in accordance with subdivision
13 (d).

14 (h) (1) If a regional transportation planning agency described
15 in subdivision (g) does not elect to exchange its annual
16 apportionment, a county located within the boundaries of that
17 regional transportation planning agency may elect to exchange its
18 annual apportionment received pursuant to paragraph (2) of
19 subdivision (d) for nonfederal State Highway Account funds.

20 (2) A county not included in a regional transportation planning
21 agency described in subdivision (g), whose apportionment
22 pursuant to paragraph (2) of subdivision (d) was less than 1 percent
23 of the total amount apportioned to all counties in the state, may
24 exchange its apportionment for nonfederal State Highway
25 Account funds. If the apportionment to the county was more than
26 $3\frac{1}{2}$ percent of the total apportioned to all counties in the state, it
27 may exchange that portion of its apportionment in excess of $3\frac{1}{2}$
28 percent for nonfederal State Highway Account funds. Exchange
29 funds received by a county pursuant to this section may be used for
30 any transportation purpose.

31 (i) The department shall be responsible for closely monitoring
32 the use of federal transportation funds, including regional surface
33 transportation program funds to assure full and timely use. The
34 department shall prepare a quarterly report for submission to the
35 commission regarding the progress in use of all federal
36 transportation funds. The department shall notify the commission
37 and the appropriate implementation agency whenever there is a
38 failure to use federal funds within the three-year apportionment
39 period established under subdivision (b).

(j) The department shall provide written notice to implementing agencies when there is one year remaining within the three-year apportionment period established under subdivision (b) of this section.

(k) Within six months of the date of notification required under subdivision (j), the implementing agency shall provide to the department a plan to obligate funds that includes, but need not be limited to, a list of projects and milestones.

(l) If the implementing agency has not met the milestones established in the implementation plan required under subdivision (k), prior to the end of the three-year apportionment period established under subdivision (b), the commission shall redirect those funds for use on other transportation projects in the state.

(m) Notwithstanding subdivisions (g) and (h), regional surface transportation program funds available under this section exchanged pursuant to Section 182.8 may be loaned to and expended by the department. The department shall repay from the State Highway Account to the Traffic Congestion Relief Fund all funds received as federal reimbursements for funds exchanged under Section 182.8 as they are received from the Federal Highway Administration, except that those repayments are not required to be made more frequently than on a quarterly basis.

SEC. 3. Section 182.7 of the Streets and Highways Code is amended to read:

182.7. (a) Notwithstanding Sections 182 and 182.5, Sections 188, 188.8, and 825 do not apply to the expenditure of an amount of federal funds equal to the amount of federal funds apportioned to the state pursuant to subsection (b)(2) of Section 104 of Title 23 of the United States Code. These funds shall be known as the congestion mitigation and air quality program funds and shall be expended in accordance with Section 19 of Title 3 of the United States Code. The department, the transportation planning agencies, and the metropolitan planning organizations may do all things necessary in their jurisdictions to secure and expend those federal funds in accordance with the intent of federal law and this chapter.

(b) The congestion mitigation and air quality program funds, including any funds to which subsection (c) of Section 110 of Title 23 of the United States Code, as added by subdivision (a) of Section 1310 of Public Law 105-178, applies, shall be apportioned

1 by the department to the metropolitan planning organizations
2 designated pursuant to Section 134 of Title 23 of the United States
3 Code and, in areas where none has been designated, to the
4 transportation planning agency established by Section 29532 of
5 the Government Code. The funds shall be apportioned to
6 metropolitan planning organizations and transportation planning
7 agencies responsible for air quality conformity determinations in
8 federally designated air quality nonattainment and maintenance
9 areas within the state in the manner and in accordance with the
10 formula set forth in subsection (b)(2) of Section 104 of Title 23 of
11 the United States Code. Funds apportioned under this subdivision
12 shall remain available for three federal fiscal years, including the
13 federal fiscal year apportioned.

14 (c) Notwithstanding subdivision (b), where county
15 transportation commissions have been created by Division 12
16 (commencing with Section 130000) of the Public Utilities Code,
17 all congestion mitigation and air quality program funds shall be
18 further apportioned by the metropolitan planning organization to
19 the county transportation commission on the basis of relative
20 population within the federally designated air quality
21 nonattainment and maintenance areas after first apportioning to
22 the nonattainment and maintenance areas in the manner and in
23 accordance with the formula set forth in subsection (b)(2) of
24 Section 104 of Title 23 of the United States Code.

25 In the Monterey Bay region, all congestion mitigation and air
26 quality improvement program funds shall be further apportioned,
27 on the basis of relative population, by the metropolitan planning
28 organization to the regional transportation planning agencies
29 designated under subdivision (b) of Section 29532 of the
30 Government Code.

31 (d) The department shall notify each metropolitan planning
32 organization, transportation planning agency, and county
33 transportation commission receiving an apportionment under this
34 section, as soon as possible each year, of the amount of
35 obligational authority estimated to be available for expenditure
36 from the federal apportionment. The metropolitan planning
37 organizations, transportation planning agencies, and county
38 transportation commissions, in cooperation with the department,
39 congestion management agencies, cities and counties, and affected
40 transit operators, shall select and program projects in conformance

1 with federal law. Each metropolitan planning organization and
2 transportation planning agency shall, not later than August 1 of
3 each even-numbered year beginning in 1994, submit its
4 transportation improvement program prepared pursuant to Section
5 134 of Title 23 of the United States Code to the department for
6 incorporation into the state transportation improvement program.

7 (e) Not later than July 1 of each year, the metropolitan planning
8 organizations and the regional transportation planning agencies
9 receiving obligational authority under this section, shall notify the
10 department of the projected amount of obligational authority that
11 each entity intends to use during the remainder of the current
12 federal fiscal year, including, but not limited to, a list of projects
13 that will use the obligational authority. Any federal obligational
14 authority that will not be used shall be redistributed by the
15 department to other projects in a manner that ensures that the state
16 will continue to compete for and receive increased obligational
17 authority during the federal redistribution of obligational
18 authority. If the department does not have sufficient federal
19 apportionments to fully use excess obligational authority, the
20 metropolitan planning organization or transportation planning
21 agency relinquishing obligational authority shall make sufficient
22 apportionments available to the department to fund alternate
23 projects, when practical, within the geographical areas
24 relinquishing the obligational authority. Notwithstanding this
25 subdivision, the department shall comply with subsection (f) of
26 Section 133 of Title 23 of the United States Code.

27 (f) The department shall be responsible for closely monitoring
28 the use of federal transportation funds, including congestion
29 management and air quality funds, to assure full and timely use.
30 The department shall prepare a quarterly report for submission to
31 the commission regarding the progress in use of all federal
32 transportation funds. The department shall notify the commission
33 and the appropriate implementation agency whenever there is a
34 failure to use federal funds within the three-year apportionment
35 period established under subdivision (b).

36 (g) The department shall provide written notice to
37 implementing agencies when there is one year remaining within
38 the three-year apportionment period established under subdivision
39 (b) of this section.



1 (h) Within six months of the date of notification required under
2 subdivision (g), the implementing agency shall provide to the
3 department a plan to obligate funds that includes, but need not be
4 limited to, a list of projects and milestones.

5 (i) If the implementing agency has not met the milestones
6 established in the implementation plan required under subdivision
7 (h) above, prior to the end of the three-year apportionment period
8 established under subdivision (b), the commission shall redirect
9 those funds for use on other transportation projects in the state.

10 (j) Congestion mitigation and air quality program funds
11 available under this section exchanged pursuant to Section 182.8
12 may be loaned to and expended by the department. The department
13 shall repay from the State Highway Account to the Traffic
14 Congestion Relief Fund all funds received as federal
15 reimbursements for funds exchanged under Section 182.8 as they
16 are received from the Federal Highway Administration, except
17 that those repayments are not required to be made more frequently
18 than on a quarterly basis.

19 SEC. 4. Section 182.8 of the Streets and Highways Code is
20 amended to read:

21 182.8. (a) It is the intent of the Legislature that this program
22 help increase flexibility in the use of state and federal funding to
23 complete transportation improvements. The ability to exchange
24 certain federal funds for state funds may enhance that flexibility.
25 However, it is the intent of the Legislature that the commission
26 make these exchanges only if the exchanges do not compromise
27 other state funded projects or activities.

28 (b) The commission shall propose guidelines and procedures to
29 implement this section, hold a public hearing on the guidelines,
30 and adopt the guidelines on or before February 1, 2001. The
31 commission shall begin the exchange program on or before
32 February 1, 2001, if it determines that funding is available for that
33 purpose. The commission may amend its guidelines after holding
34 a public hearing, but may not amend the guidelines between the
35 time it notifies regional transportation planning agencies of the
36 amount of state funds available for exchange and its approval of
37 projects for exchange in any given year.

38 (c) On or before January 5 of each year, the department shall
39 report to the commission the amounts apportioned as federal local
40 assistance in the regional surface transportation and congestion

1 mitigation and air quality programs for the year, the Federal
2 Obligation Authority for the year, and the amount of federal funds
3 it expects to be able to obligate for work on projects in all programs
4 on or before September 30 of that year, and the commission, in
5 cooperation with the department, shall determine the amount of
6 state funds from the Traffic Congestion Relief Fund that can be
7 made available for exchange under this section. If the release of
8 federal apportionments and obligational authority is delayed
9 beyond November 1 in any year, all the dates specified in this
10 section shall be extended by an equivalent time, however, all
11 federal funds exchanged shall be obligated on or before September
12 30 of the current federal fiscal year.

13 (d) The commission may exchange funds under this section if
14 it determines all of the following:

15 (1) Adequate state funds are available to accomplish the
16 exchange without putting at risk other transportation activities or
17 projects needing state funds.

18 (2) Any exchange will be consistent with full implementation
19 of the Traffic Congestion Relief Act of 2000.

20 (3) Federal funds received in exchange can be readily and
21 effectively used on other projects or activities by the state during
22 the federal fiscal year.

23 (e) After making the determinations set forth in subdivision (d)
24 the commission may offer to exchange state funds from the Traffic
25 Congestion Relief Fund for federal local assistance funds, subject
26 to the limits imposed under this section. For the purpose of this
27 section, “federal local assistance” funds means regional surface
28 transportation program or congestion mitigation and air quality
29 program apportionments received that federal fiscal year and
30 apportioned as local assistance pursuant to Sections 182.6 and
31 182.7.

32 (f) Not later than February 1 of each year, the commission shall
33 notify the regional transportation planning agencies of the amount
34 of state funds available for exchange for federal local assistance
35 funds for that year. The maximum amount of state funds to be
36 exchanged may not exceed 50 percent of the total amount of
37 federal regional surface transportation program and congestion
38 mitigation and air quality program funds apportioned for the
39 current fiscal year as local assistance pursuant to subdivision (b)
40 of Section 182.6 and subdivision (b) of Section 182.7, exclusive

of state funds that may be exchanged pursuant to subdivision (g) of Section 182.6, paragraphs (1) and (2) of subdivision (h) of Section 182.6, or Section 182.7. Federal funds exchanged under this program shall be available for projects identified by the commission as ready to obligate during determination of the amount available for exchange. The amount of exchange may not exceed the department's ability to obligate all federal funds during the current federal fiscal year. The commission may not exchange state funds for regional surface transportation program funds required to be spent for transportation enhancements. This section does not affect the amount of exchange under subdivision (g) of ~~Sections~~ Section 182.6, or paragraphs (1) and (2) of subdivision (h) of Section 182.6.

(g) Regional transportation planning agencies may submit applications for exchange of funds to the commission not later than March 15 of each year. Applications shall identify the proposed use for the exchange funds, including project descriptions, cost estimates, scopes of work, schedules for construction, schedules for expenditures, and any other information required by the commission. The commission may require a region to identify priorities among applications it submits.

(h) If the commission receives applications for more exchange funds than the amount of state funds available, the commission shall select projects for exchange up to the amount of state funds available. The commission shall explain the criteria it uses to select projects, which shall include, but are not limited to, all of the following:

- (1) Removal of all federal funds from projects.
- (2) Assessment of projects that would benefit most from removal of federal funding because of size, type, location, agency capability, features, or federal requirements.
- (3) Approximate relative equity within the program among regions in receiving state exchange funds over a multiyear period.
- (i) The commission may exchange state funds for federal local assistance funds with agencies requesting exchanges. Agencies wishing to exchange their federal funds shall provide apportionments and obligation authority at the same rate the Federal Highway Administration distributes obligation authority. Agencies exchanging federal funds shall receive funds equal to 90 percent of the obligation authority exchanged. The commission

1 shall approve exchanges of funds not later than its second regularly
2 scheduled meeting following March 15 each year.

3 (j) The commission shall determine an exchange payment
4 schedule based on expenditure plans. The commission may
5 suspend exchange payment schedules if it determines projects are
6 not proceeding.

7 (k) For financial display and reporting purposes, obligational
8 authority received pursuant to this section shall be reported as a
9 revenue accrual in the Traffic Congestion Relief Fund in the year
10 in which the exchange is approved under subdivision (i). Funds
11 approved for exchange shall be accrued as expenditures in the year
12 in which the exchange is approved. Notwithstanding Section
13 16362 of the Government Code, the department shall repay from
14 the State Highway Account to the Traffic Congestion Relief Fund
15 all funds received as federal reimbursements for funds exchanged
16 under this section as they are received from the Federal Highway
17 Administration, except that those repayments are not required to
18 be made more frequently than on a quarterly basis.

19 (l) State funds provided through an exchange under this section
20 shall be encumbered within one year and expended within three
21 years.

22 (m) Upon adoption of its implementing guidelines, the
23 commission may consider requests for exchanges under this
24 section.

25 (n) Regional and local agencies shall use state exchange funds
26 only for projects or purposes for which the federal local assistance
27 funds being exchanged were originally intended, and may not
28 supplant local funds on projects in order that those local funds can
29 subsequently be used for nontransportation purposes. The
30 commission may require agencies to certify that they are meeting
31 this requirement. Agencies not meeting this maintenance of effort
32 requirement may not be allowed to participate in the next exchange
33 cycle.

34 (o) The commission shall include a summary of exchanges
35 made pursuant to this section in its annual report to the Governor
36 and Legislature pursuant to Section 14556.36, including an
37 assessment of progress in implementing projects funded by
38 exchanges, and discussion of issues and recommendations related
39 to implementation of the exchange program.

1 (p) Not later than the effective date of the reauthorization of the
2 federal surface transportation act, the commission shall submit a
3 report to the Governor and the Legislature recommending any
4 changes in the exchange program necessitated by that
5 reauthorization.

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